

# **Federal Register**

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**Friday  
September 26, 1997**

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## **Part IV**

### **Federal Election Commission**

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**11 CFR Parts 102, 104, and 108  
Recordkeeping and Reporting; Proposed  
Rule**

**FEDERAL ELECTION COMMISSION****11 CFR Parts 102, 104 and 108**

[Notice 1997-14]

**Recordkeeping and Reporting****AGENCY:** Federal Election Commission.**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Federal Election Commission requests comment on proposed revisions to regulations that govern recordkeeping, reporting, and filing with State officers under the Federal Election Campaign Act of 1971, as amended ("the Act" or "FECA"). The proposed revisions, many of which are technical in nature, would clarify and simplify requirements for recording, reporting, and filing reports of campaign-related receipts and disbursements. The revisions are intended to address issues that have arisen since the rules were last amended. Please note that the draft rules which follow do not represent a final decision by the Commission on issues presented in this rulemaking.

**DATES:** Comments must be received on or before October 27, 1997. If the Commission receives requests to testify, it will hold a hearing on November 5, 1997 at 10:00 a.m. Persons wishing to testify should so indicate in their written comments.

**ADDRESSES:** Comments should be addressed to Ms. Susan E. Propper, Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Commission's postal service address: Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Faxed comments should be sent to (202) 219-3923. Commenters submitting faxed comments should also submit a printed copy to the Commission's postal service address to ensure legibility. Comments may also be sent by electronic mail to "reprec@fec.gov". Commenters sending comments by electronic mail should include their full name, electronic mail address and postal service address within the text of their comments. Comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan E. Propper, Assistant General Counsel, or Ms. Teresa A. Hennessy, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 219-3690 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** The FECA's principal requirements for

recording and reporting contributions and expenditures in connection with Federal elections currently appear at 11 CFR 102.9 and 104.3. The first rule prescribes procedures for committees that qualify as political committees under the Act to follow in recordkeeping. The second sets forth procedures for political committees to follow in reporting campaign-related receipts and disbursements. The procedures apply to authorized committees, i.e. committee(s) designated by a candidate to receive contributions and make expenditures on his or her behalf, and unauthorized committees, those not so designated by a candidate. 11 CFR 100.5(f).

Although the Commission has made several changes to these sections in earlier rulemakings, it is now taking a comprehensive look at the recordkeeping and reporting requirements. Disclosure of campaign finance in connection with Federal elections is a major goal of the FECA, as recognized by the Supreme Court. See *Buckley v. Valeo*, 424 U.S. 1, 67-69 (1976). Hence, the Commission is undertaking to clarify—and where possible, to simplify—the requirements. The Commission is aware of the ongoing need to balance the public interest in effective and timely disclosure with the concerns of the regulated community about reporting burdens. Thus, the draft rules propose several key changes: reorganizing the reporting requirements by retaining the provisions applicable to unauthorized committees at 11 CFR 104.3 and moving the reporting requirements for candidates' authorized committees to new 11 CFR 104.17; permitting alternatives for reporting loan repayments; simplifying the reporting requirements for draws on a line of credit; and clarifying procedures for reporting disbursements paid by credit card(s).

Concurrently, a review is underway of the relevant reporting forms: Form 3 for authorized committees and Form 3X for unauthorized committees. Under the proposed revisions, the rules and forms would be revised in a parallel manner. Draft revised Form 3 and Form 3X are available on request from the Commission's Public Records Branch at 999 E Street, NW, Washington, DC 20463 (202/219-4140 or 800/424-9530).

Lastly, the Act's requirements for filing reports with State officers appear at 11 CFR part 108. The regulations provide that any reports required under the Act are also required to be filed with the Secretary of State, or other State officer, of the appropriate State(s). The regulations identify the "appropriate" State(s) and set forth duties for State

officers regarding the reports. See, e.g., 11 CFR 108.2 and 108.6. The Commission seeks to comport these rules with recent amendments to the FECA, providing that these requirements do not apply in certain circumstances. Public Law No. 104-79, 109 Stat. 791 (1995).

The Commission seeks comment on the proposed regulations. It requests that any comments on the reporting forms be forwarded with comments on the proposed reporting rules. The Commission also welcomes comments on the recordkeeping and reporting process, in general, including any issues not covered by the proposed regulations. A summary of the proposed revisions follows.

#### **A. Proposed 11 CFR 102.9—Accounting for Contributions and Expenditures**

Proposed § 102.9, governing recordkeeping for contributions and expenditures, would redesignate current paragraphs (a)(1)–(3) as paragraphs (a)(2)–(4), respectively. The draft rule also would propose several substantive changes for procedures set forth at current paragraphs (a), (b) and (d).

##### **1. Proposed Recordkeeping for Contributions**

The proposed revisions first would codify recordkeeping requirements for contributions of \$50 or less. A committee would have two options for maintaining this information. It may retain the information specified for contributions in excess of \$50 at redesignated paragraph (a)(2). Or, for many small contributions received at a fundraising event, the committee may record the name of the event, the date(s) contributions are received at the event, and the total amount of contributions received on each day of the event.

The Act requires that a treasurer of a political committee maintain an account of all contributions received by or on behalf of the committee but does not specify how records should be kept of receipts under \$50. 2 U.S.C. 432(c)(1). Currently, the rule elaborates that the treasurer may use "any reasonable accounting procedure" to maintain these records. 11 CFR 102.9(a). The Commission has suggested methods of recording receipts under \$50 in Advisory Opinions ("AO") 1981-48 and 1980-99. This section would codify that guidance at new paragraph (a)(1).

##### **2. Proposed Recordkeeping for Disbursements**

The draft rule would continue the current rule's definition of "payee". See proposed paragraph (b)(2)(i)(A). The rule would provide that a "payee" is a

person who receives payment directly from the committee, or indirectly from an agent of the committee, in return for goods or services extended to the committee or its agent. To comply with the proposed section, a committee therefore must retain records for all disbursements it makes, including those by its agent, or primary payee, to other vendors that perform work for the committee, or secondary payees. As presented later, a committee similarly would be required to report all disbursements: payments to primary payees would be reported as disbursements and, under certain circumstances, payments to secondary payees would be reported as memo entries. See proposed §§ 104.3(c)(2) and 104.17(c)(2).

The Commission has addressed recording and reporting disbursements to payees in AO 1996-20, AO 1983-25 and in audits. In AO 1996-20, the Commission determined that the principal campaign committee ("PCC")—the committee designated by the candidate as his main authorized committee—for the re-election of a Member of Congress was permitted to reimburse the Member's Chief of Staff ("COS") for his campaign-related travel expenses. See 11 CFR 100.5(e)(1), 101.1 and 102. The Commission stated that the PCC must report as memo entries the COS' payments to vendors for the travel expenses " \* \* \* to achieve full disclosure but not inflate disbursement figures." See AO 1996-20, note 3. The Commission reached a different conclusion in AO 1983-25. There, the Commission determined that, after a presidential PCC made direct payments to certain media consultants, it was not required to itemize payments by the consultants to other vendors which performed work for the PCC as long as records were maintained for the latter disbursements.

The draft rule would codify the guidance of AO 1996-20 for two reasons. First, the reporting method referenced in this opinion would indicate how a committee's disbursements are actually used and, thus, would serve the disclosure policy underlying the Act. Relying alone on the recordkeeping requirements in AO 1983-25 would not as effectively result in such disclosure.

Next, the two committees in the opinions are different legal entities under the Act. The Presidential campaign committee was a recipient of public funding and, therefore, was required to undergo a mandatory audit. 26 U.S.C. 9007 and 9038. It also was required to maintain records of disbursements to secondary payees. See

11 CFR 9003.5, 9033.1(b)(7) and 9033.11. Hence, even if publicly funded committees were not required to report disbursements to secondary payees, the Commission could rely on audits to examine these disbursements. On the other hand, Title 2 committees, such as the PCC in AO 1996-20, do not receive public funding and are not required to be audited by statute. Compare 2 U.S.C. 438(b). Thus, the mechanism of a recordkeeping and reporting requirement is necessary so that the Commission may examine how Title 2 committees directly, and indirectly, use funds. The Commission welcomes comments on the proposed clarification.

The draft rule would revise the recordkeeping requirements in other respects. The draft rule would more clearly state that an individual who receives an advance from a committee for his or her own travel or subsistence would be a "payee". The draft rule would raise the amount of the qualifying advance from \$500 or less to \$1,000 or less, to accommodate inflationary increases. See proposed paragraph (b)(2)(i)(B).

The documentation requirements for disbursements also would be revised. The draft rule would require that if a committee makes an advance for travel or subsistence expenses, it must keep all expense account documentation related to the advance. The present rule requires only that the committee maintain "the expense voucher or other expense account documentation" (emphasis added). Thus, committees now may satisfy their recordkeeping obligations by retaining only one type of documentation, even if more records originally existed for a particular expense. The Commission proposes this change because the present rule may conflict with the general requirement to maintain records stated at 11 CFR 104.14. Moreover, the Commission has discovered that an expense voucher may have required information that other expense account documentation lacks, or vice-versa. The proposed documentation requirement would not require committees to create new records. Rather, it would clarify that committees must preserve all records related to disbursements, consistent with § 104.14.

The draft rule specifically would address documentation requirements for disbursements by bank draft accounts and debit cards. These financial instruments are more commonly used today by committees and have unique characteristics. Therefore, the Commission is providing guidance on how to retain required information for transactions based on these. The

Commission also would welcome comments on suitable documentation for these transactions. Please note that the proposed requirements for bank draft accounts are distinct from those for share draft accounts at credit unions, addressed at current paragraph (b)(2)(iii). The new provisions would address a current concern of committees and lead to more complete, useful information for committees and the Commission. See proposed paragraph (b)(2) and new paragraphs (b)(2)(iv) and (v).

Further, the draft rule would clarify that a committee treasurer must comply with both the "best efforts" rule and the requirements of 11 CFR 104.14. Principally, a treasurer would be required to meet the recordkeeping duties set forth at proposed § 102.9 and, at the same time, to maintain bank records and other documents related to reports required under 11 CFR part 104. See proposed paragraph (d).

The proposed revisions also would require that, in recording contributions to candidates, a committee identify the election(s) for which these are made. See proposed paragraph (b)(1)(iii). In addition, the proposed revisions would amend paragraph (b)(1)(iv) of the section to cross-reference the new citations for the definition of "purpose" in proposed §§ 104.3 and 104.17. The final rules will contain conforming amendments to other sections of the regulations to reflect the revisions proposed for this section.

## **B. Proposed 11 CFR 104.3—Contents of Reports for Unauthorized Committees**

### **1. Proposed Restructuring of Current 11 CFR 104.3**

The Commission proposes to restructure, into two sections, 11 CFR 104.3 which governs the contents of reports political committees must file. Proposed 11 CFR 104.3 would state the requirements applied to all unauthorized committees for reporting receipts and disbursements. The corresponding requirements for authorized committees would appear at new 11 CFR 104.17. (Please note that the Commission recently repealed former 11 CFR 104.17 as an obsolete rule. 60 FR 56506 (November 9, 1995.)) The purpose of the proposed restructuring is to clarify points of Commission policy, simplify the preparation of reports pursuant to 2 U.S.C. 434, and facilitate committees' efforts to locate the rules that apply to each. The Commission welcomes comments on the proposed restructuring.

## 2. Proposed Reporting Requirements for Unauthorized Committees

As amended, the section would follow the organization of current 11 CFR 104.3 except for the changes discussed below. Most of the proposed changes would appear at draft paragraphs (b), (c), (k) and (l) to address procedures for reporting receipts and disbursements, amending reports and reporting disbursements paid by credit card(s), respectively. New paragraph (a) would state the rule's scope and refer authorized committees to the reporting requirements at new § 104.17.

### a. Reporting Receipts of Unauthorized Committees

The proposed amendments would delete the reference to traveler's checks in the definition of "Cash on hand". Under this amendment, a committee may hold traveler's checks only after receiving these as contributions, see 11 CFR 104.8, and before depositing these pursuant to 11 CFR 103.3(a). The proposed amendment is intended to comport with the Act and to address substantial problems raised by the use of traveler's checks for disbursements. The Act requires that, except for petty cash fund expenditures, a committee issue a check from an account at its campaign depository to make a disbursement. 2 U.S.C. 432(h). See also 11 CFR 102.10 and 103.3. Traveler's checks are unlike these checks: traveler's checks are not forwarded to a committee's campaign depository and are unavailable for review. Thus, at times committees have been unable to identify payees or the purpose of disbursements by traveler's checks, and the Commission's efforts to evaluate a committee's compliance with the Act have been frustrated. The Commission welcomes comment on the proposal to limit the role of traveler's checks in campaign finance. See redesignated paragraph (b)(2).

The categories and itemizations of receipts for unauthorized committees would be reorganized and revised in draft paragraphs (b) (3) and (4). Concurrently, Form 3X would be revised to conform to the proposed rule. Similar provisions for authorized committees would be addressed in new § 104.17.

Paragraph (b)(3) would set forth the revised categories of receipts that must be reported on the Detailed Summary Page of Form 3X. The revisions would reflect the types of receipts received by unauthorized committees in recent years. For example, the draft rule would add two new categories: "loan repayments received" and "refunds of

contributions made by the reporting committee to political committees". See proposed paragraphs (b)(3) (vi) and (viii). In addition, the Commission proposes to reduce the burden on committees by deleting the itemized and unitemized sub-categories for "offsets to operating expenditures" and "other receipts". See proposed paragraphs (b)(3) (vii) and (ix). The draft rule also would clarify that the category of "contributions from persons" would include contributions from committees that do not qualify as political committees under the Act, and that "offsets to operating expenditures" would refer to rebates and refunds from vendors. See proposed paragraphs (b)(3) (i), (ii) and (vii). Further, the draft paragraph would require year-to-date reporting for itemized and unitemized sub-categories.

The proposed itemizations of receipts for unauthorized committees, which must be reported on Schedule A of Form 3X, would follow the revisions proposed for reporting categories of receipts, discussed above. Thus, the proposed rule would add an itemization for loan repayments received, clarify that the current itemization for "offsets" refers to rebates and refunds from vendors, and add an itemization for refunds of contributions. See proposed paragraphs (b)(4) (v)-(vii).

### b. Reporting Disbursements of Unauthorized Committees

The draft rule would reorganize and revise requirements for reporting categories and itemizations of disbursements at proposed paragraphs (c) (1) and (2). The proposed revisions would appear on Form 3X, concurrently under revision. (Similar requirements for authorized committees would be moved to new section 104.17.) The draft rule also would cross-reference new reporting requirements for disbursements paid by credit card found at new paragraph (l).

The categories of disbursements, which are reported as total amounts on the Detailed Summary Page of Form 3X, would be revised to reflect contemporary disbursement practices by committees. Illustratively, the categories for refunds of contributions to persons and to political committees would replace "offsets". See proposed paragraphs (c)(1) (ix) and (x). These revisions also would correspond to amendments proposed for reports of receipts. To ease committees' reporting burdens, the draft rule would delete itemized and unitemized sub-categories for "other disbursements". See proposed paragraph (c)(1)(xii). The proposed amendments additionally

would clarify which disbursements are covered by categories in the current rule for operating expenditures, transfers to affiliated or party committees, coordinated party expenditures under 11 CFR 110.7, and other disbursements. See proposed paragraphs (c)(1) (ii), (iii), (vi), and (xii). As for receipts, the proposed rule would require year-to-date reporting for itemized and unitemized sub-categories of disbursements.

The revised itemizations of disbursements for unauthorized committees, which must be reported on Schedule B of Form 3X, would appear at proposed paragraph (c)(2). The amended rule would clarify that a committee may report a loan repayment in two ways: report the sum of the principal and interest as a single loan repayment, or report the principal as a loan repayment and the interest as an operating expenditure. (Committees would continue to report on Schedule C repayments of principal and the outstanding principal balance for each loan.) In the past, the Commission has instructed that each interest payment be reported as a separate operating expenditure. See AO 1991-9 and AO 1986-45. Although the latter method is consistent with the Act's requirements, the former may be easier for reporting committees. The Commission seeks to ease the reporting burden on committees and requests comment on the proposal to permit alternative reporting methods for loan repayments. See proposed paragraph (c)(2)(vi).

The Commission seeks comments on related points raised by Schedule D. For example, should a committee report as a payment toward a debt incurred for goods or services only the principal paid and report as an operating expenditure the finance charges paid? Or, should a committee report the sum of these as a debt payment? The Commission is considering permitting both reporting methods, and requiring that payments (including accrued interest) on debts owed to a committee be reported along similar lines.

The revisions proposed for itemizations of disbursements generally would follow the revisions proposed for categories of disbursements, discussed above. Thus, a committee would itemize "refunds of contributions" to persons and to political committees in place of "offsets to contributions". See proposed paragraphs (c)(2) (viii) and (ix). The proposed rule would add a requirement that, for certain itemized disbursements, a committee identify the election for which the disbursement was made. See proposed paragraphs (c)(2) (iii)-(v) and (vii). Where a disbursement is a

contribution, a committee would be required to identify the election for which it made the contribution and, hence, the particular contribution limit against which the contribution must be counted, e.g. 1998 General Election. See 2 U.S.C. 441a.

#### c. Additional Revisions to Section 104.3

Significant changes are proposed at paragraphs (e), "Reporting debts and obligations", (h), "Legal and accounting services", (k), "Amending reports", and (l), "Credit card payments", of the draft rule. With respect to paragraph (e), the provision governing loans to candidates would be moved to new § 104.17. The proposed revisions also would simplify the current rule to require that, for a line of credit, a committee file Schedule C-1 only when it reports the receipt of a line of credit or a restructuring of the line. As revised, the rule would require a committee to report each draw on a line of credit only as a receipt on Schedule A.

The Commission proposes to simplify the reporting requirements because it appears that committees often make numerous draws on a line of credit in a single day. The draws usually are made without restructuring the line of credit, i.e. changing the repayment terms such as the interest rate. The Commission therefore has questioned the present practice of requiring a Schedule C-1 for every routine draw. The Commission believes that it would be more informative to require that, after the initial Schedule C-1, a committee file a subsequent Schedule C-1 only to report a restructuring of the line. This approach would ease the burden on committees while protecting the public interest in disclosure. The Commission emphasizes that a committee would remain obligated to report, as with any debt or obligation, the outstanding balance on a line of credit on Schedule C.

The reporting requirements would be streamlined for a committee that receives legal and accounting services pursuant to 11 CFR 100.7(b) (13) and (14). Draft paragraph (h) would delete the current requirement that a committee report each person providing the services. The Commission also is proposing to institute a \$200 threshold for "itemizing" receipts of these services: a committee would specify in a memo entry, on Schedule A, the regular employers of persons providing the services which have spent more than \$200 for the services during the calendar year. For "unitemized" receipts of the services, or those from employers which have not met the \$200 threshold, a committee instead would

report as a memo entry, on Schedule A, the total of amounts paid by regular employers for the services and maintain all records of the services as described in 11 CFR 102.9(c). A memo entry is supplemental information about a specific transaction, and the dollar amount recorded in the memo entry is not included in the totals reported on the Detailed Summary Page for Form 3X (or Form 3). Thus, for an employer meeting the \$200 threshold, a committee would report a memo entry: Employer A/Address, \$50, on 11/22/96 (where Employer A had spent \$250 for the services in 1996). For regular employers not meeting the threshold, a committee would report a memo entry: \$500 received in "unitemized" exempt legal and accounting services (for example, to reflect 5 employers which individually had not spent more than \$200 for the services in 1996).

New paragraph (k) would be added to clarify the process for amending reports that are filed with the Commission in hard-copy form. The new paragraph would present: the deadline for filing an amendment; optional methods for filing amendments; and a provision for identifying the specific changes in the amended report(s). These provisions would apply both to amendments prompted by a Commission notice and to those initiated by a committee after discovering an error, omission or change in information. The Commission proposes to standardize the amendment process to simplify a committee's reporting obligations. The proposed revisions also are intended to address an issue that frequently arises concerning amendments to longer reports as well as shorter reports, such as Schedule H-4 ("Joint Federal and NonFederal Activity Schedule"). A mechanism to quickly and clearly identify the changes on amended pages, or reports, submitted by a committee is necessary to ensure the accuracy of the Commission's database and to assist the review of disclosure reports. The draft rule provides one mechanism for ensuring that the Commission and the public are able to locate easily new or amended information in a report. The Commission welcomes suggestions as to other effective methods for achieving this result, and seeks comment generally on the proposed amendment process. In addition, the Commission notes that a committee which amends an electronically filed report must follow a different procedure set forth at 11 CFR 104.18.

New paragraph (l) would clarify and simplify reporting obligations for disbursements paid by credit card. These provisions would apply to all

disbursements subject to the requirements proposed for categories of disbursements, and itemized entries for the categories, discussed earlier. The new paragraph would define a credit card as representing a credit account with a depository institution or other corporation that is not a depository institution. See 11 CFR 103.2. For some credit cards, the monthly balance must be paid in full; for others, it may be paid in part or in full. A committee would be required to itemize on Schedule B each payment to a credit card company, the depository institution or other corporation receiving the payment, the date and the amount of payment. For example, for a payment that covers an entire monthly balance, the committee would report: ABC National Bank (VISA), Anytown, Any State, 12/05/96, \$2,000.00. The committee also would include the payment in the total for the appropriate category on the Detailed Summary Page of Form 3X (or Form 3).

Under the new provisions, if the disbursement is a partial payment of a monthly credit card balance, the committee first would report the information required for a full payment, as noted above, and next report a memo entry on Schedule B. The memo entry would report the creditor, the outstanding credit balance, and the corresponding date. In the example above, the committee would report as a memo entry: ABC National Bank (VISA), \$1,000 balance, as of 12/05/96. It would not include \$1,000 in the appropriate totals on the Detailed Summary Page, but it would report the unpaid balance as a debt under 11 CFR 104.11(b).

Whether paying its bill in full or in part, a committee also would be required to report, as a memo entry on Schedule B, each expenditure that is separately listed on a monthly credit card statement and that would be required to be itemized under proposed paragraph (c)(2). In the example above, the committee would report as a memo entry: \$600 to XYZ Printing Company, Anytown, Any State, 12/01/96, by ABC National Bank VISA, for campaign literature. If a committee made multiple expenditures to a particular vendor during a single reporting period and each was required to be itemized, the committee would report a memo entry for each expenditure. Thus, a committee would itemize a disbursement to pay all, or part, of a credit card balance and would identify the itemizable, underlying expenditures that were paid by credit card. See new paragraphs (l) (2) and (3).

In the Commission's experience, many committees pay for disbursements with credit card(s) and subsequently

make partial payments to the credit card company. Thus, regulations tailored to these transactions would disclose more information about a committee's disbursements as well as identify a committee's outstanding credit balances. The Commission welcomes comment on the proposal to include the new paragraph in the reporting requirements.

Lastly, the proposed amendments would modify section 104.3 in several other respects. The draft rule would substitute the term "savings association" for "savings and loan institutions" to reflect current regulatory practice. See 12 CFR 561.43 (Regulations Applicable to All Savings Associations, Office of Thrift Supervision, U.S. Department of Treasury). In addition, the draft provision for reporting "cash on hand" would cross-reference to 11 CFR 104.13 to clarify that, when a committee receives a non-liquid asset (such as a computer) as an in-kind contribution, it should report the contribution in a memo entry rather than as cash. See proposed paragraph (b)(2). Current paragraph (c), "Summary of contributions and operating expenditures", would be adjusted to reflect the amendments proposed for reporting categories of receipts and disbursements. See proposed paragraph (d). Finally, the proposed amendments would move current paragraph (f), "Consolidated reports", to new § 104.17 as it relates solely to authorized committees, and add guidance for national party committees in proposed paragraph (g), "Building funds".

### C. New 11 CFR 104.17—Contents of Reports for Authorized Committees

The new rule would contain all the reporting provisions applicable to authorized committees of candidates. Also, Form 3 would be revised to reflect these provisions. New § 104.17 generally would follow the organization of proposed § 104.3, thus simplifying the reporting process for authorized committees. The discussion below concentrates on the provisions unique to authorized committees and not discussed in the preceding discussion of proposed § 104.3.

#### 1. Reporting Receipts of Authorized Committees

The new rule would address reporting receipts by authorized committees at new paragraph (b) and would correspond to current 11 CFR 104.3(a) (3) and (4). The categories of receipts at new paragraph (b)(3) would be reported as total amounts on the Detailed Summary Page of Form 3. The new

section would specify more clearly which categories include the following receipts: contributions from the candidate; loans made, guaranteed or endorsed by the candidate; Federal matching funds for presidential candidates; and the new factor of contributions refunded by authorized committees for other Federal candidates. See new paragraphs (b)(3) (iii), (vi), (vii), and (ix). The draft categories also would provide for transfers from other committees authorized by the candidate, to the extent permitted by Commission regulations. See new paragraph (b)(3)(v) and 11 CFR 110.3(c) (4) and (5) and 110.8(d)(2). In addition, reimbursements by any person for "personal use" of committee funds would be added to the category of "other receipts". See new paragraph (b)(3)(x). "Personal use" consists of the use of campaign funds for an obligation of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder. Certain payments for travel or vehicle expenses may include both legitimate officeholder or campaign activities and personal business. The portion of these costs associated with personal activities must be reimbursed under 11 CFR 113.1(g)(1)(ii) (C) or (D).

As drafted, the categories would continue to state that coordinated party expenditures, made pursuant to 11 CFR 110.7, are not contributions and would add that loan repayments received are included as "other receipts". See new paragraph (b)(3) (ii) and (x). To ease reporting burdens, the draft rule would delete the requirements for reporting total itemized and unitemized "offsets to operating expenditures" and "other receipts". See new paragraphs (b)(3) (viii) and (x).

The draft rules for itemizing receipts, which must be reported on Schedule A of Form 3, would follow the changes proposed for categories of receipts. The new section also would add that an authorized committee specify the election for which contributions from persons and from political committees are made when it itemizes the contributions. See draft paragraphs (b)(4) (i) and (ii). In addition to the requirements at proposed § 104.3, a committee would be required to itemize all loans it has received including those made to the candidate as the committee's agent. If any loan itemized under draft paragraph (b)(4)(v) represents a contribution by a lender, endorser or guarantor, the committee would be required to report the election for which the contribution was made. As drafted, the section would add a

provision governing the itemization of contributions by the candidate, excluding any loans by the candidate. See new paragraph (b)(4) (iii) and (v).

#### 2. Reporting Disbursements of Authorized Committees

The new rule would govern reporting disbursements at new paragraph (c). This new paragraph would correspond to current 11 CFR 104.3(b) (2) and (4).

One issue on which the Commission seeks comment concerns the requirement that authorized committees report the "purpose" of committee disbursements. See new paragraphs (c)(2)(i) (A) and (B). In particular, the Commission seeks comment on whether to require more information on committees' statements of "purpose" in the interests of monitoring adequately possible instances of personal use of campaign funds. 11 CFR 113.1(g)(1) (i) and (ii). It is intended that any new requirement would generate meaningful disclosure about committee disbursements, as intended by the Act, without significantly increasing committees' reporting burdens.

The Commission's current regulations closely follow the legislative guidance on this point:

It is the opinion of the Committee that the purpose requirement will be satisfied by a short statement or description, no more than one or two words in most cases, of why the money was spent. The particulars, i.e., the details, of the disbursement are not required by the statute.

H.R. Rep. No. 422, 96th Cong., 1st Sess. 18 (1979). Despite suggestions in comments received in the Commission's rulemaking on "personal use", 60 FR 7862 (February 9, 1995), the Commission has been reluctant to conclude that the purpose statement serves only to regulate personal use of campaign funds. These statements provide required information about other committee disbursements, such as a committee's contributions to a committee authorized by another candidate. Over the years, however, purpose statements often have lacked sufficient detail to enable the Commission to determine whether a certain disbursement represents a candidate's personal use of campaign funds. See Matter Under Review 3107. In addition, a more informative purpose statement may be necessary to determine whether a disbursement by an authorized committee for an officeholder not seeking re-election is impermissible personal use.

The Commission is obligated to enforce the Act's prohibition on personal use of campaign funds. 2 U.S.C. 439a. Currently, the only



reporting provisions addressing this ban are the requirement for statements of purpose and the requirement to describe certain disbursements for travel and vehicle expenses for which the committee expects reimbursement. See 11 CFR 104.17(c)(2)(i) (A) and (B); 11 CFR 113.1(g)(1)(ii) (C) and (D). Hence, the Commission requests comment on possible mechanisms for generating more disclosure of the purpose of committee disbursements without heavily burdening reporting committees.

As drafted, the new rule would cross-reference to draft paragraph (l) governing disbursements paid by credit card. The categories of disbursements, at new paragraph (c)(1), would be reported as total amounts on the Detailed Summary Page of Form 3. The draft rule would specify which categories include the following receipts: transfers to other committees authorized by the candidate; repayments of loans made or guaranteed by the candidate; and disbursements by authorized committees for presidential candidates not subject to the limitations at 11 CFR 110.8. See new paragraphs (c)(1) (ii)–(iv). Also, the new rule would add a category for contributions to committees authorized by other candidates for Federal office. See new paragraph (c)(1)(viii). The new categories of refunds of contributions to persons and to political committees would replace the current category of "offsets to contributions". See new paragraphs (c)(1) (v) and (vi). To ease committees' reporting burdens, the new rule would eliminate reporting itemized and unitemized subcategories for "other disbursements". See draft paragraph (c)(1)(ix).

Paragraph (c)(2) would contain the reporting requirements for itemizing disbursements on Schedule B of Form 3. The draft rule would add a requirement that a committee identify the election for which contributions and loans to authorized committees for other candidates are made. See new paragraphs (c)(2) (iii) and (v). A committee would be required to itemize repayments for all loans used in the campaign, whether these were made to the committee or to the candidate. See draft paragraph (c)(2)(iv).

### 3. Additional Revisions to New Section 104.17

Generally, new paragraphs (d)–(l) would correspond to proposed paragraphs (d)–(l) of § 104.3 with certain exceptions. The draft rule would provide for reporting loans to candidates and would move "Consolidated reports" from current 11

CFR 104.3(f). See new paragraphs (e)(2), (3) and (g).

The final rules will contain conforming amendments to other sections of the regulations to reflect changes in cross-reference citations, resulting from the reorganization of 11 CFR 104.3 into two sections and the proposed revisions included therein.

### D. 11 CFR Part 108—Filing Copies of Reports and Statements With State Officers

The FECA governs, *inter alia*, the filing of campaign finance reports and statements by political committees with Secretaries of State or equivalent State officers. Similarly, the Act specifies the duties of State officers to maintain the duplicate reports. 2 U.S.C. 439. On December 28, 1995, Public Law No. 104–79, 109 Stat. 791 (1995), amended the FECA to provide that the filing and maintenance requirements no longer apply where the Commission determines that a State maintains a system that permits electronic access to, and duplication of, reports and statements filed with the Commission. Public Law No. 104–79, section 2 (codified at 2 U.S.C. 439(c)).

The proposed rule would revise 11 CFR part 108 to conform to the statutory amendments. It also would ease reporting burdens for political committees and other persons as well as filing responsibilities for State offices. For example, an unauthorized committee or other person, making independent expenditures under 11 CFR part 109, would not be required to file a copy of campaign finance reports with the relevant State officer where the Commission has determined that the State office maintains a system that can receive and duplicate optically imaged reports from the Commission. Optically imaged reports are stored on special optical disks. See proposed §§ 108.1(b)(1) and 108.3(b). These are unlike microfilm and microfiche. This method also is distinct from electronic filing of reports, which was the subject of a separate rulemaking by the Commission. See 61 FR 42371 (August 15, 1996). Current technology requires that the images be stored and maintained on specialized equipment at the Commission. To access and retrieve these images, states must have the equipment necessary to connect to the Commission's imaging system. Although currently no state office has the necessary capability, the Commission expects that states will begin to gain the capability in the near future.

The proposed revisions would apply to reports filed in connection with

primaries for presidential and vice-presidential candidates as well as reports by unauthorized committees in connection with a presidential election. See proposed §§ 108.2 and 108.4. The revisions also would apply to reports filed in connection with a candidate's campaign for the office of Representative in, Delegate or Resident Commissioner to the Congress. The 1995 amendments and a subsequent rulemaking on the point of entry for campaign finance reports provide that these reports now are filed with the Commission rather than the Clerk of the House of Representatives. Public Law 104–79, section 3; 61 FR 3549 and 6095 (February 1 and 16, 1996). Hence, the Commission includes the reports in the optical imaging process and is able to make the reports available to State offices.

However, reports filed by a candidate, or authorized committee(s) of a candidate, to the office of Senator would not be covered. Since these reports are filed with the Secretary of the Senate, the Commission does not receive the original reports and cannot optically image the copies it receives. Consequently, it is unable to make the reports available to State offices by this method. See proposed § 108.3.

Lastly, the provisions governing the duties of state officers to maintain the duplicate reports would be modified to correspond to the 1995 amendments. See proposed § 108.6.

The Commission seeks comment on all proposed revisions to the regulations concerning recordkeeping, reporting, and filing with State offices and on the proposed conforming amendments. The Commission also welcomes comment on these requirements generally, including any issues not covered by the proposed regulations. Please note that a subsequent rulemaking may cover other issues addressed by parts 102 and 104.

### Certification of No Effect Pursuant to 5 U.S.C. 605(b)

#### (Regulatory Flexibility Act)

The attached proposed rules would not, if promulgated, have a significant economic impact on a substantial number of small entities. The majority of the attached proposed rules would clarify recordkeeping and reporting requirements under the Federal Election Campaign Act, and any affected entities already are required to comply with the Commission's requirements in this area. The remaining attached proposed rules for filing copies of reports with State officers would conform to statutory amendments and reduce any reporting burden of affected entities. Therefore, these rules would not have a significant

economic effect on a substantial number of small entities.

#### List of Subjects

##### 11 CFR Part 102

Political candidates, Reporting and recordkeeping requirements.

##### 11 CFR Part 104

Campaign funds, Political candidates, Political committees and parties, Reporting and recordkeeping requirements.

##### 11 CFR Part 108

Elections, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, it is proposed to amend subchapter A, chapter I of title 11 of the Code of Federal Regulations as follows:

#### PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (2 U.S.C. 433)

1. The authority citation for part 102 would continue to read as follows:

**Authority:** 2 U.S.C. 432, 433, 438(a)(8), 441d.

2. Section 102.9 would be amended by redesignating paragraphs (a)(1) through (3) as paragraphs (a)(2) through (4), respectively, by adding new paragraph (a)(1), by revising newly designated paragraphs (a)(2) through (4), the last sentence of (b)(1) introductory text, (b)(1) (iii) and (iv), (b)(2) introductory text and (b)(2)(i) (A) and (B), by adding new (b)(2) (iv) and (v), and by revising paragraph (d) to read as follows:

##### § 102.9 Accounting for contributions and expenditures (2 U.S.C. 432(c)).

\* \* \* \* \*

(a) \* \* \*

(1) For contributions of \$50 or less, a committee may satisfy the requirements of this section by keeping either: the name and address of each contributor, the date of receipt and the amount of each contribution; or, if the committee received many small contributions under \$50 each through a fundraising event, the name of the event, the date(s) contributions were received at the event, and the total amount of contributions received on each day of the event.

(2) For contributions in excess of \$50 each, the account shall include the name and address of the contributor, the date of receipt and amount of each contribution.

(3) For contributions from any person whose contributions aggregate more than \$200 during a calendar year, the

account shall include the identification of the person, the date of receipt and amount of each contribution.

(4) For contributions from a political committee, the account shall include the identification of the political committee, the date of receipt and amount of each contribution.

(b)(1) \* \* \* The account shall consist of a record of:

\* \* \* \* \*

(iii) if the disbursement is made for a candidate, the name, the election (e.g. primary or general) and office (including State and Congressional district, if any) sought by the candidate.

(iv) For purposes of 11 CFR 102.9(b)(1), purpose has the same meaning given the term at 11 CFR 104.3(c)(2)(i)(A) and (B) and 104.17(c)(2)(i)(A) and (B).

(2) In addition to the account to be kept under paragraph (b)(1) of this section, the receipt(s) or invoice(s) from the payee or the canceled check(s) to the payee shall be obtained and kept for each disbursement in excess of \$200, by or on behalf of, the committee, except that credit card transactions shall be documented in accordance with paragraph (b)(2)(ii) of this section, disbursements by share draft or check drawn on a credit union account shall be documented in accordance with paragraph (b)(2)(iii) of this section, bank draft account disbursements shall be documented in accordance with paragraph (b)(2)(iv) of this section, and debit card transactions shall be documented in accordance with paragraph (b)(2)(v) of this section.

(i)(A) For purposes of paragraph (b)(2) of this section, payee means the person who provides the goods or services to the committee or its agent in return for payment, except that an employee of a political committee, or other individual, who receives an advance from the committee of \$1,000 or less for his or her own travel and subsistence shall be considered the payee for that advance.

(B) For any advance to an employee of a political committee, or other individual, of \$1,000 or less for travel and subsistence, the committee shall obtain and keep all expense account documentation including the expense voucher and the canceled check(s) to the recipient of the advance.

\* \* \* \* \*

(iv) For purposes of paragraph (b)(2) of this section, a copy of the draft drawn on a bank draft account may be used as a duplicate record of the draft provided that the monthly account statement showing that the draft was paid by the bank also is retained.

(v) For purposes of paragraph (b)(2) of this section, the point of sale receipt for

a debit card transaction may be used as a duplicate record of the transaction provided that the monthly account statement reflecting the debit charge also is retained.

\* \* \* \* \*

(d) \* \* \* The treasurer, or his or her authorized agent, also shall meet the requirements of 11 CFR 104.14.

\* \* \* \* \*

#### PART 104—REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)

3. The authority citation for part 104 would continue to read as follows:

**Authority:** 2 U.S.C. 431(1), 431(8), 431(9), 432(d), 432(i), 434, 438(a)(8), 438(b), 439a.

4. Section 104.3 would be revised to read as follows:

##### § 104.3 Contents of reports for political committees other than authorized committees (2 U.S.C. 434(b), 439a).

(a) *Scope.* The requirements of this section apply to all political committees other than authorized committees. Authorized committees shall meet the requirements for reporting receipts and disbursements set forth at 11 CFR 104.17.

(b) *Reporting of Receipts.* (1) *General.* Each report filed under this section shall disclose the total amount of receipts for the reporting period and for the calendar year and shall disclose the information set forth at paragraphs (b)(2) through (4) of this section. The first report filed by a committee shall also include all amounts received prior to becoming a political committee under 11 CFR 100.5, even if these amounts were not received during the current reporting period.

(2) *Cash on hand.* The amount of cash on hand at the beginning of the reporting period, including: currency; balance on deposit in banks, savings associations and other depository institutions; certificates of deposit, treasury bills and any other committee investments valued at cost. Non-liquid assets on hand, if received as in-kind contributions, should be reported in accordance with 11 CFR 104.13.

(3) *Categories of receipts.* Each report shall disclose the total amount of receipts received during the reporting period and during the calendar year for each of the following categories:

(i) Contributions from persons other than political committees, including individuals and committees that do not qualify as political committees under the Act;

(A) Itemized contributions;

(B) Unitemized contributions;

(ii) Contributions from political committees;



- (A) Party committees;
- (B) Authorized committees;
- (C) Unauthorized committees other than party committees;
- (iii) Total contributions (add contributions from persons to contributions from political committees);
- (iv) Transfers from affiliated committees and, where the reporting committee is a political party committee, transfers from other party committees of the same party, regardless of whether the committees are affiliated;
- (v) Loans received;
- (vi) Loan repayments received;
- (vii) Offsets to operating expenditures, such as vendor refunds and rebates;
- (viii) Refunds of contributions made by the reporting committee to political committees;
- (ix) Other receipts (such as dividends and interest);
- (x) The total sum of all receipts.
- (4) *Itemization of receipts.* The identification (as defined at 11 CFR 100.12) of each contributor and the aggregate year-to-date total for the contributor in each of the following categories shall be reported.
  - (i) Each person other than a political committee, including individuals and committees which do not qualify as political committees under the Act, who makes a contribution to the reporting committee during the reporting period, whose contribution(s) aggregate in excess of \$200 per calendar year, together with the date of receipt and amount of the contribution(s), except that the reporting committee may elect to report this information for contributors of lesser amount(s) on a separate schedule;
  - (ii) All political committees which make contributions to the reporting committee during the reporting period, together with the date of receipt and amount of the contribution(s);
  - (iii) Each affiliated political committee which transfers funds to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another party committee of the same party regardless of whether the committees are affiliated, together with the date and amount of the transfer;
  - (iv) Each person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of the loan, the date the loan was made, and the amount or value of the loan;
  - (v) Each person who makes a loan repayment to the reporting committee

- during the reporting period, together with the date and amount of the repayment;
- (vi) Each person who provides an offset to operating expenditures, such as vendor rebates and refunds, to the reporting committee in an aggregate amount in excess of \$200 within the calendar year, together with the date and amount of the offset;
- (vii) Each political committee, including authorized committees, which refunds during the reporting period a contribution made by the reporting committee, together with the date of receipt and amount of the refund; and
- (viii) Each person who provides any dividend, interest, or other receipt to the reporting committee, in an aggregate amount in excess of \$200 within the calendar year, together with the date and amount of the receipt.
- (c) *Reporting of Disbursements.* Each report filed under this section shall disclose the total amount of all disbursements for the reporting period and for the calendar year and shall disclose the information set forth at paragraphs (c)(1) and (2) of this section. If a committee has paid any disbursements by credit card, the committee shall report the disbursements in accordance with paragraph (l) of this section. The first report filed by a committee shall also include all amounts disbursed prior to becoming a political committee under 11 CFR 100.5, even if these amounts were not disbursed during the current reporting period.
- (1) *Categories of disbursements.* Each report shall disclose the total amount of disbursements made during the reporting period and during the calendar year in each of the following categories:
  - (i) Shared Federal and nonfederal operating expenditures;
    - (A) Federal share;
    - (B) Nonfederal share;
  - (ii) Other Federal operating expenditures;
    - (A) Itemized expenditures;
    - (B) Unitemized expenditures;
    - (C) Total Federal operating expenditures;
  - (iii) Transfers to affiliated political committees and, where the reporting committee is a political party committee, transfers to other party committees of the same party, regardless of whether the committees are affiliated;
  - (iv) Contributions to political committees including authorized committees and unauthorized committees, such as party committees;
  - (v) Independent expenditures made (2 U.S.C. 434(b)(4)(H)(iii));
  - (vi) Coordinated party expenditures made (2 U.S.C. 441a(d));

- (vii) Loan repayments made;
- (viii) Loans made by the reporting committee;
- (ix) Refunds of contributions to persons, including individuals, other than political committees;
  - (A) Itemized refunds;
  - (B) Unitemized refunds;
- (x) Refunds of contributions to political committees;
  - (A) Party committees;
  - (B) Authorized committees;
  - (C) Unauthorized committees other than party committees;
- (xi) Total contribution refunds (add contribution refunds to persons and contribution refunds to political committees);
- (xii) Other disbursements, including any disbursements to nonfederal candidate committees;
- (xiii) Total disbursements;
- (xiv) Total Federal disbursements.
- (2) *Itemization of disbursements.* Each report shall disclose the full name and address of each person in each of the following categories; as well as the information required by each category. For each disbursement governed by paragraphs (c)(2)(i) or (x) of this section, the report shall disclose this information for each vendor or other person to whom a disbursement is made directly by the committee, and shall contain a memo entry for each vendor or other person to whom a disbursement is made by an agent of the committee.
  - (i) Each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet the committee's operating expenses, together with the date, amount, and purpose of the operating expenditure;
    - (A) As used in paragraph (c)(2) of this section, purpose means a brief statement or description of why the disbursement was made.
    - (B) Examples of statements or descriptions which adequately describe the purpose of a disbursement include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, and catering costs. However, statements or descriptions such as advance, election day expenses, other expenses, expenses, expense reimbursement, miscellaneous, outside services, get-out-the-vote and voter registration would not meet the requirements of paragraph (c)(2) of this section for reporting the purpose of an expenditure.
  - (ii) Each affiliated political committee to which a transfer is made by the reporting committee during the reporting period and, where the

reporting committee is a political party committee, each transfer of funds by the reporting committee to another party committee of the same party regardless of whether the committees are affiliated, together with the date and amount of the transfer;

(iii) Each political committee, which has received a contribution from the reporting committee during the reporting period, together with the date and amount of the contribution and, for contributions to authorized committees, the candidate's name, the election (e.g., primary or general) and office sought (including State or Congressional district, where applicable);

(iv) (A) Each person who receives any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of the independent expenditure(s);

(B) For each independent expenditure reported, the committee must also provide a statement which indicates whether the independent expenditure is in support of, or in opposition to, a particular candidate, as well as the name of the candidate, the election and office sought by the candidate (including State and Congressional district, where applicable), and a certification, under penalty of perjury, as to whether the independent expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or any authorized committee or its agent;

(C) The information required by paragraph (c)(2)(iv)(A) and (B) of this section shall be reported on Schedule E as part of a report covering the reporting period in which the aggregate disbursements for any independent expenditure to any person exceed \$200 per calendar year. Schedule E shall also include the total of all such expenditures of \$200 or less made during the reporting period.

(v) Each person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under 11 CFR 110.7 (2 U.S.C. 441a(d)), together with the date, amount, and purpose of the expenditure as well as the name of, and the election and office sought by (including State and Congressional district, where applicable), the candidate on whose behalf the expenditure is made;

(vi) Each person who receives a loan repayment from the reporting committee

during the reporting period, together with the date and amount of repayment;

(A) For each loan repayment, the committee shall either report the principal and the interest as separate disbursements, or, it shall report the sum of these as a single disbursement. If the committee applies the former method, the principal shall be reported on Schedules B and C as a loan repayment and the interest shall be reported on Schedule B as an operating expenditure. If the committee applies the latter method, the sum of the principal and the interest shall be reported on Schedule B as a loan repayment and only the principal shall be reported on Schedule C;

(B) The committee shall use one reporting method for the duration of a loan;

(vii) Each person who has received a loan from the reporting committee during the reporting period, together with the date and amount or value of the loan, and for any authorized committee that has received a loan, the candidate's name, the election and office sought (including State or Congressional district, where applicable);

(viii) Each person, other than a political committee, who receives a contribution refund from the reporting committee during the reporting period where the receipt of the contribution was reported under paragraph (b)(4)(i) of this section, together with the date and amount of the refund;

(ix) Each political committee which receives a contribution refund from the reporting committee during the reporting period where the receipt of the contribution was reported under paragraph (b)(4)(ii) of this section, together with the date and amount of the refund; and

(x) Each person, including nonfederal candidate committees, who has received any disbursement during the reporting period not otherwise disclosed under paragraph (c)(2) of this section, to whom the aggregate amount or value of disbursements made by the reporting committee exceeds \$200 within the calendar year, together with the date, amount, and purpose of the disbursement(s).

(d) *Summary of contributions and operating expenditures.* Each report filed under this section shall disclose for both the reporting period and the calendar year:

(1)(i) The total contributions to the reporting committee;

(ii) The total of contribution refunds;

(iii) The net contributions (subtract total of contribution refunds from total contributions);

(2)(i) The reporting committee's total Federal operating expenditures;

(ii) The total offsets to operating expenditures; and

(iii) The net Federal operating expenditures (subtract total offsets from total Federal operating expenditures).

(e) *Reporting debts and obligations.* Each report filed under this section shall, on Schedule C or D, as appropriate, disclose the amount and nature of outstanding debts and obligations owed by or to the reporting committee. Where these debts and obligations are settled for less than their reported amount or value, each report filed under this section shall contain a statement as to the circumstances and conditions under which the debts or obligations were extinguished and the amount paid. See 11 CFR 116.7.

(1) In addition, when a committee obtains a loan or a line of credit from a lending institution as described in 11 CFR 100.7(b)(11) and 100.8(b)(12), it shall disclose in the next due report the following information on Schedule C-1:

(i) The date and amount of the loan or line of credit;

(ii) The interest rate and repayment schedule of the loan or line of credit;

(iii) The types and value of traditional collateral or other sources of repayment that secure the loan or the line of credit, and whether that security interest is perfected;

(iv) An explanation of the basis upon which the loan was made or the line of credit established, if not made on the basis of either traditional collateral or other sources of repayment described in 11 CFR 100.7(b)(11)(i)(A) and (B) and 100.8(b)(12)(i)(A) and (B); and

(v) A certification from the lending institution that the borrower's responses to paragraphs (e)(1)(i) through (iv) of this section are accurate, to the best of the lending institution's knowledge; that the loan was made or the line of credit established on terms and conditions (including interest rate) no more favorable at the time than those imposed for similar extensions of credit to other borrowers of comparable credit worthiness; and that the lending institution is aware of the requirement that a loan or line of credit must be made on a basis which assures repayment and that the lending institution has complied with Commission regulations at 11 CFR 100.7(b)(11) and 100.8(b)(12).

(2) The committee shall submit a copy of the loan or line of credit agreement which describes the terms and conditions of the loan or line of credit when it files Schedule C-1.

(3) The committee shall file with the next due report a Schedule C-1 each

time a loan or a line of credit is restructured to change the terms of the repayment.

(4) The committee shall report a receipt of funds in the next due report, on Schedule A, each time it makes a draw on a line of credit.

(f) *Use of pseudonyms.* (1) To determine whether the names and addresses of its contributors are being used in violation of 11 CFR 104.15 to solicit contributions or for commercial purposes, a committee may submit up to ten (10) pseudonyms on each report filed under this section.

(2) For purposes of this section, a pseudonym is a wholly fictitious name which does not represent the name of an actual contributor to a committee.

(3) If a committee uses pseudonyms it shall subtract the total dollar amount of the fictitious contributions from the total amount listed on line 11(a)(ii) of the Detailed Summary page, "Contributions from Individuals/Persons, Unitemized". Thus the committee will, for this purpose only, be overstating the amount of itemized contributions received and understating the amount of unitemized contributions received.

(4) No committee which files reports under this section shall attribute more than \$5,000 in contributions to the same pseudonym in any calendar year.

(5) A committee using pseudonyms shall send a list of the pseudonyms under separate cover directly to the Reports Analysis Division, Federal Election Commission, 999 E Street, N.W., Washington, DC 20463, on or before the date on which any report containing such pseudonyms is filed with the Secretary of the Senate or the Commission. The Commission shall maintain the list, but shall exclude it from the public record. A committee shall not send any list of pseudonyms to the Secretary of the Senate or to any Secretary of State or equivalent State officer.

(6) A committee shall not use pseudonyms for the purpose of circumventing the reporting requirements or the limitations and prohibitions of the Act.

(g) *Building funds.* Gifts, subscriptions, loans, advances, deposits of money or anything of value made to defray costs of construction or purchase of office facilities received by a political committee in accordance with 11 CFR 100.7(b)(12) shall be reported as a memo entry on Schedule A. National party committees shall report building fund receipts and disbursements in accordance with 11 CFR 104.8(f) and 104.9(d).

(h) *Legal and accounting services.* A committee which receives legal or accounting services pursuant to 11 CFR 100.7(b)(13) and (14) during the reporting period shall report the services in accordance with paragraphs (i) (1) or (2) of this section.

(1) If the regular employer of person(s) who provide the services has paid in excess of \$200 for the services during the calendar year, the committee shall report as a memo entry, on Schedule A, the amounts paid for the services by the regular employer together with the date(s) the services were performed.

(2) For each regular employer who has paid no more than \$200 for the services during the calendar year, the committee shall report as a memo entry, on Schedule A, the sum of the amount(s) paid by each regular employer of person(s) who provide the services. The committee shall preserve all records of these services, for the period required by 11 CFR 102.9(c), to reflect the name of each regular employer, the amounts paid by each, and the date(s) the services were performed.

(i) *Cumulative reports.* The reports required to be filed under 11 CFR 104.5 shall be cumulative for the calendar year to which they relate, but if there has been no change in a category reported in a previous report during that year, only the amount thereof need be carried forward.

(j) *Earmarked contributions.*

Earmarked contributions shall be reported in accordance with 11 CFR 110.6. See also 11 CFR 102.8(c).

(k) *Amending reports.* A committee shall change or correct a report previously filed under this section, no later than the next due report, after the committee discovers an error, omission or change in the information submitted in the report. A committee may submit only those pages that have been changed or corrected, or it may refile the entire, amended report. The committee shall identify the changes, either in a cover letter or on the amended pages or report, by specifying the lines on the Schedule(s) or Form(s) that have been amended.

(l) *Credit card payments.* (1) Where a committee has paid, by credit card, any disbursement(s) subject to paragraphs (c) (1) and (2) of this section, the committee shall report these disbursements in accordance with this paragraph. For the purposes of this section, a credit card represents a credit account with a depository institution (see 11 CFR 103.2) or other corporation that is not a depository institution. A credit account may permit the committee to make a partial payment of each monthly balance or may require

the committee to pay each monthly balance in full.

(2) The reporting committee shall itemize on Schedule B each payment to a credit card issuer by specifying the depository institution or other corporation to which payment was made, the date and amount of payment. Where the committee has made a partial payment of a monthly balance, the committee shall report a memo entry for the outstanding credit balance on Schedule B and report the outstanding balance as a debt to the extent required by 11 CFR 104.11(b).

(3) Any disbursement reflected on a monthly account statement for a credit card, that otherwise is required to be itemized by paragraph (c)(2) of this section, shall be reported as a memo entry on Schedule B in addition to the information required under paragraph (i)(2) of this section.

5. New § 104.17 would be added to read as follows:

**§ 104.17 Contents of reports for authorized committees (2 U.S.C. 434(b), 439a).**

(a) *Scope.* The requirements of this section apply to all authorized committees of candidates for Federal office. All other political committees shall meet the requirements for reporting receipts and disbursements set forth at 11 CFR 104.3.

(b) *Reporting of Receipts.* (1) *General.* Each report filed under this section shall disclose the total amount of receipts for the reporting period and for the calendar year and shall disclose the information set forth at paragraphs (b)(2) through (4) of this section. The first report filed by a committee shall also include all amounts received prior to becoming a political committee under 11 CFR 100.5, even if these amounts were not received during the current reporting period.

(2) *Cash on hand.* The amount of cash on hand at the beginning of the reporting period, including: currency; balance on deposit in banks, savings associations and other depository institutions; certificates of deposit, treasury bills and any other committee investments valued at cost. Non-liquid assets on hand, if received as in-kind contributions, should be reported in accordance with 11 CFR 104.13.

(3) *Categories of receipts.* Each report shall disclose the total amount of receipts received during the reporting period and during the calendar year for each of the following categories:

(i) Contributions from persons other than political committees, including individuals and committees that do not qualify as political committees under the Act, but excluding the candidate

who authorized the reporting committee;

(A) Itemized contributions;

(B) Unitemized contributions;

(ii) Contributions from political committees;

(A) Party committees, except that expenditures made under 11 CFR 110.7 (2 U.S.C. 441a(d)) by a party committee shall not be reported as contributions by the authorized committee on whose behalf they are made;

(B) Authorized committees of other candidates;

(C) Unauthorized committees other than party committees;

(iii) Contributions from the candidate, excluding loans which are reported under paragraph (b)(3)(vi)(A) of this section;

(iv) Total contributions (add contributions from persons, political committees and the candidate);

(v) Transfers from other committee(s) authorized by the candidate, regardless of amount;

(vi) Loans received;

(A) Loans made, guaranteed, or endorsed by the candidate to his or her authorized committee;

(B) All other loans to the committee;

(C) Total loans;

(vii) For authorized committee(s) of Presidential candidates, Federal funds received under chapters 95 and 96 of the Internal Revenue Code of 1954 (Title 26, United States Code);

(viii) Offsets to operating expenditures, such as vendor refunds and rebates;

(ix) Refunds of contributions made by the reporting committee to committees authorized by other candidates for Federal office and to other political committees;

(x) Other receipts (such as dividends, interest, loan repayments and reimbursements received pursuant to 11 CFR 113.1(g));

(xi) The total sum of all receipts.

(4) *Itemization of receipts.* The identification (as defined at 11 CFR 100.12) of each contributor and the aggregate year-to-date total for the contributor in each of the following categories shall be reported.

(i) Each person other than a political committee, including individuals and committees that do not qualify as political committees under the Act but excluding the candidate who authorized the reporting committee, who makes a contribution to the committee during the reporting period, whose contribution(s) aggregate in excess of \$200 per calendar year, together with the date of receipt, the amount of the contribution(s) and the election(s) (e.g. primary or general) for which each

contribution is made, except that the committee may elect to report this information for contributors of lesser amount(s) on a separate schedule;

(ii) All political committees which make contributions to the reporting committee during the reporting period, together with the date of receipt, amount of the contribution and the election(s) for which each contribution is made;

(iii) Each contribution by the candidate to the reporting committee during the reporting period, together with the date of receipt and amount of the contribution;

(iv) Each committee authorized by the candidate which transfers funds to the reporting committee during the reporting period, together with the date and amount of the transfer;

(v) Each person who makes a loan during the reporting period to the reporting committee or to the candidate acting as an agent of the committee, together with the identification of any endorser or guarantor of the loan, the date the loan was made, the amount or value of the loan, and, where applicable, the election(s) for which the loan was made;

(vi) Each person who makes a loan repayment to the reporting committee during the reporting period, together with the date and amount of the repayment;

(vii) Each person who provides an offset to operating expenditures, such as vendor rebates and refunds, to the reporting committee, in an aggregate amount in excess of \$200 within the calendar year, together with the date and amount of the offset;

(viii) Each authorized committee for other candidates for Federal office and any other political committee which, during the reporting period, refunds a contribution made by the reporting committee, together with the date of receipt and amount of the refund; and

(ix) Each person who provides any dividend, interest, reimbursement received pursuant to 11 CFR 113.1(g) or other receipt to the reporting committee, in an aggregate amount in excess of \$200 within the calendar year, together with the date and amount of the receipt.

(c) *Reporting of Disbursements.* Each report filed under this section shall disclose the total amount of disbursements for the reporting period and for the calendar year and shall disclose the information set forth at paragraph (c)(1) and (2) of this section. If a committee has paid any disbursements by credit card, the committee shall report these in accordance with paragraph (l) of this section. The first report filed by a

committee shall also include all amounts disbursed prior to becoming a political committee under 11 CFR 100.5, even if these amounts were not disbursed during the current reporting period.

(1) *Categories of disbursements.* Each report shall disclose the total amount of disbursements made during the reporting period and during the calendar year in each of the following categories:

(i) Operating expenditures;

(A) Itemized expenditures;

(B) Unitemized expenditures;

(C) Total operating expenditures;

(ii) Transfers to other committees authorized by the candidate;

(iii) Loan repayments made;

(A) Repayment of loans made by or guaranteed by the candidate;

(B) Repayment of all other loans;

(C) Total loan repayments;

(iv) For an authorized committee of a candidate for the office of President, disbursements not subject to the limitations of 11 CFR 110.8 (2 U.S.C. 441a(b));

(v) Refunds of contributions to persons, including individuals but excluding the candidate and political committees;

(A) Itemized refunds;

(B) Unitemized refunds;

(vi) Refunds of contributions to political committees;

(A) Party committees;

(B) Authorized committees for other candidates for Federal office;

(C) Unauthorized committees other than party committees;

(vii) Total contribution refunds (add contribution refunds to persons and contribution refunds to political committees);

(viii) Contributions to committees authorized by other candidates for Federal office and to other political committees;

(ix) Other disbursements, including any disbursements to nonfederal candidate committees;

(x) Total disbursements.

(2) *Itemization of disbursements.* Each report shall disclose the full name and address of each person in each of the following categories, as well as the information required by each category, whether the disbursement was made by the reporting committee or the candidate acting as its agent. For each disbursement governed by paragraphs (c)(2)(i) or (viii) of this section, the report shall disclose this information for each vendor or other person to whom a disbursement is made directly by the committee, and shall contain a memo entry for each vendor or other person to whom a disbursement is made by an agent of the committee.

(i) Each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet the committee's operating expenses, together with the date, amount, and purpose of the operating expenditure;

(A) As used in paragraph (c)(2) of this section, purpose means a brief statement or description of why the disbursement was made.

(B) Examples of statements or descriptions which adequately describe the purpose of a disbursement include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, and catering costs. However, statements or descriptions such as advance, election day expenses, other expenses, expenses, expense reimbursement, miscellaneous, outside services, get-out-the-vote and voter registration would not meet the requirements of paragraph (c)(2) of this section for reporting the purpose of an expenditure.

(C) In addition to reporting the purpose described in paragraph (c)(2)(i) (A) and (B) of this section, whenever the reporting committee itemizes a disbursement that is partially or entirely a personal use for which reimbursement is required under 11 CFR 113.1(g)(1)(ii) (C) or (D), it shall provide a brief explanation of the activity for which reimbursement is required.

(ii) Each committee authorized by the same candidate to which a transfer is made by the reporting committee during the reporting period, together with the date and amount of the transfer;

(iii) Each authorized committee for other candidates for Federal office and any other political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of the contribution and, for any authorized committee that has received a contribution, the candidate's name, the election (e.g. primary or general) and office sought (including State or Congressional district, where applicable);

(iv) Each person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of the loan repayment;

(A) All loan repayments from the reporting committee;

(B) All loan repayments from the candidate, if the proceeds of the loan were used in connection with the candidate's campaign;

(C) For each loan repayment, the committee shall either report the

principal and the interest as separate disbursements, or, it shall report the sum of these as a single disbursement. If the committee applies the former method, the principal shall be reported on Schedules B and C as a loan repayment and the interest shall be reported on Schedule B as an operating expenditure. If the committee applies the latter method, the sum of the principal and the interest shall be reported on Schedule B as a loan repayment and only the principal shall be reported on Schedule C;

(D) The committee shall use one reporting method for the duration of a loan;

(v) Each person who has received a loan from the reporting committee during the reporting period, together with the date and amount or value of the loan, and for any authorized committee that has received a loan, the candidate's name, the election and office sought (including State or Congressional district, where applicable);

(vi) Each person who receives a contribution refund from the reporting committee during the reporting period where the receipt of the contribution was reported under paragraph (b)(4)(i) of this section, together with the date and amount of the refund;

(vii) Each political committee which receives a contribution refund from the reporting committee during the reporting period where the receipt of the contribution was reported under paragraph (b)(4)(ii) of this section, together with the date and amount of the refund; and

(viii) Each person, including nonfederal candidate committees, who has received any disbursement during the reporting period not otherwise disclosed under paragraph (c)(2) of this section, to whom the aggregate amount or value of disbursements made by the reporting committee exceeds \$200 within the calendar year, together with the date, amount, and purpose of the disbursement(s).

(d) *Summary of contributions and operating expenditures.* Each report filed under this section shall disclose for both the reporting period and the calendar year:

(1)(i) The total contributions to the reporting committee;

(ii) The total of contribution refunds;

(iii) The net contributions (subtract total of contribution refunds from total contributions);

(2)(i) The reporting committee's total Federal operating expenditures;

(ii) The total offsets to operating expenditures; and

(iii) The net Federal operating expenditures (subtract total offsets from total Federal operating expenditures).

(e) *Reporting debts and obligations.*

(1) Each report filed under this section shall, on Schedule C or D, as appropriate, disclose the amount and nature of outstanding debts and obligations owed by or to the reporting committee. Where these debts and obligations are settled for less than their reported amount or value, each report filed under this section shall contain a statement as to the circumstances and conditions under which the debts or obligations were extinguished and the amount paid. See 11 CFR 116.7.

(2) A loan obtained by an individual prior to becoming a candidate for use in connection with that individual's campaign shall be reported as an outstanding loan owed to the lender by the candidate's principal campaign committee, if the loan is outstanding at the time the individual becomes a candidate.

(3) When a candidate or a committee obtains a loan or a line of credit from a lending institution as described in 11 CFR 100.7(b)(11) and 100.8(b)(12), it shall disclose in the next due report the following information on Schedule C-1 or C-P-1:

(i) The date and amount of the loan or line of credit;

(ii) The interest rate and repayment schedule of the loan or line of credit;

(iii) The types and value of traditional collateral or other sources of repayment that secure the loan or the line of credit, and whether that security interest is perfected;

(iv) An explanation of the basis upon which the loan was made or the line of credit established, if not made on the basis of either traditional collateral or other sources of repayment described in 11 CFR 100.7(b)(11)(i) (A) and (B) and 100.8(b)(12)(i) (A) and (B); and

(v) A certification from the lending institution that the borrower's responses to paragraphs (e)(1)(i) through (iv) of this section are accurate, to the best of the lending institution's knowledge; that the loan was made or the line of credit established on terms and conditions (including interest rate) no more favorable at the time than those imposed for similar extensions of credit to other borrowers of comparable credit worthiness; and that the lending institution is aware of the requirement that a loan or line of credit must be made on a basis which assures repayment and that the lending institution has complied with Commission regulations at 11 CFR 100.7(b)(11) and 100.8(b)(12).



(4) The committee shall submit a copy of the loan or line of credit agreement which describes the terms and conditions of the loan or line of credit when it files Schedule C-1 or C-P-1.

(5) The committee shall file with the next due report a Schedule C-1 or C-P-1 each time a loan or a line of credit is restructured to change the terms of the repayment.

(6) The committee shall report a receipt of funds in the next due report, on Schedule A, each time it makes a draw on a line of credit.

(f) *Use of pseudonyms.* (1) To determine whether the names and addresses of its contributors are being used in violation of 11 CFR 104.15 to solicit contributions or for commercial purposes, a committee may submit up to ten (10) pseudonyms on each report filed under this section.

(2) For purposes of this section, a pseudonym is a wholly fictitious name which does not represent the name of an actual contributor to a committee.

(3) If a committee uses pseudonyms it shall subtract the total dollar amount of the fictitious contributions from the total amount listed on line 11(a)(ii) of the Detailed Summary page, "Contributions from Individuals/Persons, Unitemized". Thus the committee will, for this purpose only, be overstating the amount received and understating the amount of unitemized contributions received.

(4) No committee which files reports under this section shall attribute more than \$5,000 in contributions to the same pseudonym in any calendar year.

(5) A committee using pseudonyms shall send a list of the pseudonyms under separate cover directly to the Reports Analysis Division, Federal Election Commission, 999 E Street, N.W., Washington, DC 20463, on or before the date on which any report containing such pseudonyms is filed with the Secretary of the Senate or the Commission. The Commission shall maintain the list, but shall exclude it from the public record. A committee shall not send any list of pseudonyms to the Secretary of the Senate or to any Secretary of State or equivalent State officer.

(6) A committee shall not use pseudonyms for the purpose of circumventing the reporting requirements or the limitations and prohibitions of the Act.

(g) *Consolidated reports.* Each principal campaign committee shall consolidate in each report those reports required to be filed with it. These consolidated reports shall include reports submitted to it by any authorized committees and the

principal campaign committee's own report. The consolidation shall be made on FEC Form 3-Z and shall be submitted with the reports of the principal campaign committee and with the reports, or applicable portions thereof, of the committees shown on the consolidation.

(h) *Legal and accounting services.* A committee which receives legal or accounting services pursuant to 11 CFR 100.7(b)(14) during the reporting period shall report the services in accordance with paragraphs (i) (1) or (2) of this section.

(1) If the regular employer of person(s) who provide the services has paid in excess of \$200 for the services during the calendar year, the committee shall report as a memo entry, on Schedule A, the amounts paid for the services by the regular employer together with the date(s) the services were performed.

(2) For each regular employer who has paid no more than \$200 for the services during the calendar year, the committee shall report as a memo entry, on Schedule A, the sum of the amount(s) paid by each regular employer of person(s) who provide the services. The committee shall preserve all records of these services, for the period required by 11 CFR 102.9(c), to reflect the name of each regular employer, the amounts paid by each, and the date(s) the services were performed.

(i) *Cumulative reports.* The reports required to be filed under 11 CFR 104.5 shall be cumulative for the calendar year to which they relate, but if there has been no change in a category reported in a previous report during that year, only the amount thereof need be carried forward.

(j) *Earmarked contributions.* Earmarked contributions shall be reported in accordance with 11 CFR 110.6. See also 11 CFR 102.8(c).

(k) *Amending reports.* A committee shall change or correct a report previously filed under this section, no later than the next due report, after it discovers an error, omission or change in the information submitted in the report. A committee may submit only those pages that have been changed or corrected, or it may refile the entire, amended report. The committee shall identify the changes, either in a cover letter or on the amended pages or report, by specifying the lines on the Schedule(s) or Form(s) that have been amended.

(l) *Credit card payments.* (1) Where a committee has paid, by credit card, any disbursement(s) subject to paragraphs (c) (1) and (2) of this section, the committee shall report these disbursements in accordance with this

paragraph. For the purposes of this section, a credit card represents a credit account with a depository institution (see 11 CFR 103.2) or other corporation that is not a depository institution. A credit account may permit the committee to make a partial payment of each monthly balance or may require the committee to pay each monthly balance in full.

(2) The reporting committee shall itemize on Schedule B each payment to a credit card issuer by specifying the depository institution or other corporation to which payment was made, the date and amount of payment. Where the committee has made a partial payment of a monthly balance, the committee shall report a memo entry for the outstanding credit balance on Schedule B and report the outstanding balance as a debt to the extent required by 11 CFR 104.11(b).

(3) Any disbursement reflected on a monthly account statement for a credit card, that otherwise is required to be itemized by paragraph (c)(2) of this section, shall be reported section, shall be reported as a memo entry on Schedule B in addition to the information required under paragraph (l)(2) of this section.

#### **PART 108—FILING COPIES OF REPORTS AND STATEMENTS WITH STATE OFFICERS (2 U.S.C. 439)**

6. The authority citation for part 108 would continue to read as follows:

**Authority:** 2 U.S.C. 434(a)(2), 438(a)(8), 439, 453.

7. Section 108.1 would be amended by redesignating the text as paragraph (a), revising the first sentence of newly designated paragraph (a), and adding new paragraph (b) to read as follows:

#### **§ 108.1 Filing requirements (2 U.S.C. 439(a)(1)).**

(a) Except as provided in paragraph (b)(1) of this section, a copy of each report and statement required to be filed by any person under the Act shall be filed either with the Secretary of State of the appropriate State or with the State officer who is charged by State law with maintaining state election campaign reports. \* \* \*

(b)(1) The filing requirements and duties of State officers under 11 CFR part 108 shall not apply to a State if the Commission has determined that the State maintains a system that can electronically receive and duplicate reports and statements filed with the Commission.

(2) The provisions of paragraph (b)(1) of this section shall not apply to reports filed by candidates, and the authorized



committees of candidates, for nomination for election, or election, to the office of Senator. See 11 CFR 108.3(a)(1).

8. Section 108.2 would be amended by revising the first sentence to read as follows:

**§ 108.2 Filing copies of reports and statements in connection with the campaign of any candidate seeking nomination for election to the Office of President or Vice-President (2 U.S.C. 439(a)(2)).**

Except as provided in 11 CFR 108.1(b)(1), a copy of each report and statement required to be filed under the Act (including 11 CFR part 104) by a Presidential or Vice Presidential candidate's principal campaign committee, or under 11 CFR 104.4 or part 109 by any other person making independent expenditures, in connection with a candidate seeking nomination for election to the office of President or Vice-President, shall be filed with the State officer of each State in which an expenditure is made in connection with the campaign of a candidate seeking nomination for election to the office of President or Vice-President. \* \* \*

9. Section 108.3 would be revised to read as follows:

**§ 108.3 Filing copies of reports and statements in connection with the campaign of any congressional candidate (2 U.S.C. 439(a)(2)).**

(a)(1) A copy of each report and statement required to be filed under 11 CFR part 104 by candidates, and the authorized committees of candidates, for nomination for election, or election, to the office of Senator, shall be filed

with the appropriate State officer of that State in which an expenditure is made in connection with the campaign.

(2) Except as provided in 11 CFR 108.1(b)(1), a copy of each report and statement required to be filed by any unauthorized committee under 11 CFR part 104, or by any other person under 11 CFR part 109, in connection with a campaign for nomination for election, or election to, the office of Senator, shall be filed with the appropriate State officer of that State in which an expenditure is made in connection with the campaign.

(b) Except as provided in 11 CFR 108.1(b)(1), a copy of each report and statement required to be filed under 11 CFR part 104 by candidates, and authorized committees of candidates, for nomination for election, or election, to the office of Representative in, Delegate or Resident Commissioner to the Congress, or by unauthorized committees, or by any other person under 11 CFR part 109, in connection with these campaigns shall be filed with the appropriate State officer of that State in which an expenditure is made in connection with the campaign.

(c) Unauthorized committees that file reports pursuant to paragraph (b) of this section are required to file, and the Secretary of State is required to retain, only that portion of the report applicable to candidates seeking election in that State.

10. Section 108.4 would be revised to read as follows:

**§ 108.4 Filing copies of reports by committees other than principal campaign committees (2 U.S.C. 439(a)(2)).**

Except as provided in 11 CFR 108.1(b)(1), any unauthorized committee, which makes contributions in connection with a Presidential election and which is required to file a report(s) and statement(s) under the Act, shall file a copy of the report(s) and statement(s) with the State officer of the State in which both the recipient and contributing committees have their headquarters.

11. Section 108.6 would be amended by revising the introductory text to read as follows:

**§ 108.6 Duties of State officers (2 U.S.C. 439(b)).**

Except as provided in 11 CFR 108.1(b)(1), the Secretary of State, or the equivalent State officer, shall carry out the duties set forth in 11 CFR 108.6(a) through (d):

\* \* \* \* \*

12. Section 108.8 would be revised to read as follows:

**§ 108.8 Exemption for the District of Columbia.**

Any copy of a report required to be filed with the equivalent officer in the District of Columbia under 11 CFR part 108 shall be deemed to be filed if the original has been filed with the Secretary or the Commission, as appropriate.

Dated: September 22, 1997.

John Warren McGarry,

Chairman, Federal Election Commission.

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